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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 ME2 PRODUCTIONS, INC.,

Case No. 2:16-CV-2799 JCM (NJK)

8 Plaintiff(s),

ORDER

9 v.

10 NATHAN SILAVONG, et al.,

11 Defendant(s).

12
13 Presently before the court is Magistrate Judge Koppe's report and recommendation
14 following an order to show cause as to why the defendants should not be severed and all but the
15 first-named defendant dismissed. (ECF No. 27). Plaintiff ME2 Productions, Inc., filed an
16 objection. (ECF No. 36). Defendant Nathan Silavong filed a notice that he does not object "to be
17 severed and dismissed for (sic) [this case]." (ECF No. 32). He filed an objection too, but provided
18 no argument in support of the objection. (ECF No. 35).

19 Also before the court is plaintiff's motion for entry of clerk's default. (ECF No. 30).

20 Also before the court is defendants Jose Leyva's and Brigida Pastrana's motion to dismiss
21 or sever for misjoinder. (ECF No. 24). Magistrate Judge Koppe filed a report and recommendation
22 that recommends denying this motion as moot. (ECF No. 28). Plaintiff objected. (ECF No. 36).

23 The present case is one of many filed by plaintiff against numerous Doe defendants.
24 Exhibit 1 to ME2's objection contains its memorandum and points of authority to support its
25 objections to the instant report and recommendation. (ECF No. 36-1). The exhibit is a carbon
26 copy of plaintiff's objections in the case of *ME2 Productions, Inc. v. Bayu*, case no. 2:17-cv-00724-
27 JCM-NJK. The court issued an order in *Bayu* that adopted Magistrate Judge Koppe's report and
28 recommendation in that case and severed all but the first-named defendant. For the same reasons,

1 the court finds severance here is appropriate. The remaining first-named defendant who will not
2 be dismissed is Nathan Silavong.

3 Plaintiff's motion for entry of clerk's default names Nathan Silavong as one of the
4 defendants against whom the plaintiff seeks entry of default. (ECF No. 30). With regard to the
5 other defendants, the motion is moot.

6 Plaintiff filed the operative amended complaint in this matter on March 3, 2017. (ECF No.
7 8). Nathan Silavong was served on May 2, 2017, and needed to file an answer to the complaint
8 by May 23, 2017.

9 On May 15, 2017—before the deadline to file an answer—*pro se* defendant Silavong filed
10 a “notice” regarding the amended complaint, stating the following:

11 To whom it may concern;

12 I, Nathan Silavong, have received the summons for a response requested by
13 HAMRICK & EVANS, LLP and/or United States District Court for the District of
14 Nevada. I will not settle for a fine nor am I guilty of any illegal activities. On
15 January 25, 2017, at approximately 04:30 P.M., I contacted Century Link in regards
16 to my first letter from HAMRICK & EVANS, LLP stating that I am accused of
17 illegally downloading a motion picture and/or responsible for the illegal
18 downloading of a motion picture. I spoke with Emily employee #AB67686, which
19 advised me that if any illegal activity were to occur on my internet account, my
20 account would have been suspended and I would no longer have internet service
21 (which did not happen). On May 3, 2017, at approximately 01:30 P.M. I spoke
22 with Century Link again, after receiving the summons. I spoke with a Tech Support
23 named Keith. He stated the same as Emily from before and reassured me that there
24 was no illegal activities on my account on specified date.
25 [signed Nathan Silavong with address].

26 (ECF No. 20).

27 Since, defendant Silavong has attempted to participate in this matter twice more, albeit
28 without the aid of an attorney. On June 21, 2017, Silavong mailed a letter to the court stating that
he does “not object to be severed and dismissed,” referring to Magistrate Judge Koppe’s report
and recommendation. (ECF No. 32). On June 26, 2017, Silavong filed another document stating
that he objects “to not be severed and dismissed without prejudices (sic).” (ECF No. 35).

This court must construe *pro se* filings liberally in the interests of justice and deciding cases
on the merits. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (“A document filed *pro se* is to be
liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less
stringent standards than formal pleadings drafted by lawyers.”) (internal quotations and citations

1 omitted); *Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986) (holding that a court must
2 consider, as a factor towards whether to enter default judgment, “the strong policy underlying the
3 Federal Rules of Civil Procedure favoring decisions on the merits”).

4 Although Silavong’s May 15, 2017 does not explicitly style itself an “answer” to the
5 complaint, it clearly constitutes a general denial of the central allegations against Silavong in the
6 operative amended complaint, and therefore, this court will liberally construe the document as
7 Silavong’s answer to the complaint. (*See* ECF No. 20). Accordingly, this court will deny the
8 motion for entry of clerk’s default.

9 Accordingly,

10 IT IS HEREBY ORDERED that Magistrate Judge Koppe’s report and recommendation
11 (ECF No. 27) be, and the same hereby is, ADOPTED in part and REJECTED in part, consistent
12 with the foregoing.

13 IT IS FURTHER ORDERED that all defendants except for Nathan Silavong be, and the
14 same hereby are, dismissed without prejudice.

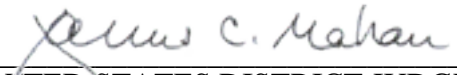
15 IT IS FURTHER ORDERED that plaintiff’s motion for entry of clerk’s default (ECF No.
16 30) be, and the same hereby is, DENIED.

17 IT IS FURTHER ORDERED that Magistrate Judge Koppe’s second report and
18 recommendation, which recommends that this court denies defendants Leyva’s and Pastrana’s
19 motion to dismiss or sever as moot, (ECF No. 28), is ADOPTED in its entirety.

20 IT IS FURTHER ORDERED that defendants Leyva’s and Pastrana’s motion to dismiss or
21 sever (ECF No. 24) is DENIED as moot as these defendants have been dismissed from this action.

22 IT IS FURTHER ORDERED that the clerk will change the title of defendant Silavong’s
23 May 15, 2017 “notice” (ECF No. 20) to be his “answer” to the operative amended complaint (ECF
24 No. 8).

25 DATED November 8, 2017.

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28 UNITED STATES DISTRICT JUDGE